

FEB 21 2008

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

KPX LLC, an Arizona limited liability  
company,

Plaintiff - Appellee,

v.

TRANSGROUP WORLDWIDE  
LOGISTICS INC., a Washington  
Corporation; TRANSGROUP EXPRESS  
INC, a Washington corporation,

Defendants - Appellants.

No. 06-15554

D.C. No. CV-04-00352-DCB

MEMORANDUM<sup>\*</sup>

Appeal from the United States District Court  
for the District of Arizona  
David C. Bury, District Judge, Presiding

Argued and Submitted February 13, 2008  
San Francisco, California

Before: SILVERMAN, McKEOWN, and TALLMAN, Circuit Judges.

Transgroup Worldwide Logistics, Inc. (“Transgroup”) appeals the district  
court’s summary judgment award of \$7,946 to KPX LLC (“KPX”) on KPX’s

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<sup>\*</sup> This disposition is not appropriate for publication and is not precedent  
except as provided by 9th Cir. R. 36-3.

claim under 49 U.S.C. § 14704(a)(2) for Transgroup’s alleged violations of the Motor Carrier Act (“MCA”), 49 U.S.C. § 13101, et seq. KPX alleged that a bill of lading issued by Transgroup for a shipment of KPX’s scooter parts violated the MCA and that KPX was damaged after some of those parts failed to arrive at their destination.

The parties dispute whether 49 U.S.C. § 14704(a)(2) provides a private right of action and whether Transgroup’s business practices violated the MCA. We need not resolve either of these questions. Even assuming that § 14704(a)(2) provides a private right of action and that Transgroup violated the MCA, KPX has failed to state a claim under § 14704(a)(2).

Section 14704(a)(2) says that “[a] carrier . . . is liable for damages sustained by a person *as a result of* an act or omission of that carrier . . . in violation of [the MCA].” 49 U.S.C. § 14704(a)(2) (emphasis added). KPX contends, and the district court held, KPX was damaged in the amount of its missing scooter parts, \$7,946. What neither the district court nor KPX explained, however, was how KPX was damaged “as a result of” the alleged defects in the bill of lading. KPX’s damages arose from the loss of its scooter parts, not defects in the paperwork surrounding the shipment. Because the only violations of the MCA alleged by KPX relate to Transgroup’s bill of lading, and because those alleged violations

were not the cause of KPX's loss, KPX has failed to state a claim under § 14704(a)(2). Accordingly, we vacate the judgment below and remand for dismissal.

VACATED AND REMANDED.